

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38547 of 2022

Arising Out of PS. Case No.-375 Year-2019 Thana- JAGDISHPUR District- Bhojpur

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MUKESH YADAV @ MUKESH KUMAR SINGH Son of Shiv Nath yadav
@ Shiv Nath Singh Resident of Village - Leela Tola, P.S.- jagdishpur, District
- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Thakur, Sr. Advocate.

For the Opposite Party/s : Mr. Ajit Kumar, APP.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-10-2022 Learned counsel for the petitioner is permitted to

remove defect(s), as pointed out by the office, if any, within a

period of four weeks from today.

Heard Mr. Ajay Thakur, learned counsel for the

petitioner as well as learned Additional Public Prosecutor for the

State.

The application for grant of bail to the petitioner,

above named, who has been made accused and put behind the

bar in connection with Jagdishpur P. S. Case No. 375 of 2019

registered for the offences punishable under Section 307 read

with 34 of the Indian Penal Code and Section 27 of the Arms

Act.

The prosecution case is based on the *fardebayan* of



the informant alleging therein that on 24.12.2019, while the informant was sitting along with his parents, in the meantime, five persons came on two motorcycles, out of which he identified Munna @ Jawahar Yadav and Mukesh Yadav (the petitioner) and Ranjan Yadav. It is also alleged that co-accused Munna @ Jawahar Yadav pointed the pistol on his head whereupon, the informant pushed the pistol from his hand and fled towards his house, in the meantime, this petitioner fired upon him, which hit at his right side of the waist. It is also alleged that the reason behind the said occurrence is that earlier his nephew Chhotak Kushwaha was killed on 27.05.2018 and in the said case, he was one of the witnesses and the accused persons gave threatening to him not to depose in the matter and when he refused, this occurrence has taken place.

Learned counsel appearing on behalf of the petitioner submitted that from the tenor of the F.I.R., it would be evident that the alleged occurrence took place on 24.12.2019 at about 06:00 P.M. whereas the F.I.R. has been instituted after a delay of thirteen hours on 25.12.2019 and the same was received in the court on 08.01.2020 and absolutely, there is no explanation as to why the said F.I.R. has been received after such a belated stage. It is also submitted that from the F.I.R., it



would appear that the allegation of pointing pistol is levelled against co-accused Munna @ Jawahar Yadav and it has not been alleged that the petitioner was having pistol in his hand, however, allegedly when he started fleeing away from the place of occurrence, he stated that the petitioner fired upon him, which appears to be an absurd allegation. It is further submitted that during the course of investigation, the witnesses whose statement has been recorded in paragraph nos. 35, 36 and 37 of the case diary, they have stated that the petitioner was not present at the place of occurrence and he has been falsely implicated in this case on account of previous enmity. It is next submitted that in course of investigation, CDR of the mobile of the petitioner has also been collected and the mobile location of the petitioner has also not been found at the place of occurrence. It is last submitted that other two co-accused persons namely, Munna @ Jawahar Yadav @ Munna Kumar Singh and Ranjan Yadav @ R.K. Yadav have been allowed the privilege of anticipatory bail by learned coordinate Bench of this Hon'ble Court in Cr. Misc. No. 25694 of 2021 vide order dated 12.04.2022. The petitioner himself surrendered in the court below on 18.05.2022 and since then he is in custody, having fair antecedent.



On the other hand, learned APP for the State opposes the bail application and submits that specific accusation has been made against the petitioner that he fired upon the informant.

Regard being had to the submissions made on behalf of the parties and taking into account the delay in despatching the F.I.R. to the jurisdictional court as also nature of allegation, apart from the fact that other co-accused persons have been allowed the privilege of anticipatory bail and moreover, the petitioner is a man of fair antecedent, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, XI, Bhojpur at Ara in connection with Jagdishpur P. S. Case No. 375 of 2019, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or



intimidate the witnesses to delay the disposal of trial.

- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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